

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-219103.2

DATE: August 20, 1985

MATTER OF: Equal Opportunity Consultants, Inc.

DIGEST:

Where contracting agency receives an envelope containing a copy of a protest in a timely fashion but returns the envelope to the sender because it was not properly addressed, prior dismissal for failure to furnish a copy of the protest to the contracting agency within 1 day after the protest was filed with GAO is affirmed since the solicitation identified the issuing activity and the specific room number necessary to ensure proper delivery within the agency and the protester must bear the consequences of its failure to include this information.

Equal Opportunity Consultants, Inc. (EOC) requests reconsideration of our dismissal of its protest against the award of a dredging contract to Disson and Juhn Corp. under request for proposals (RFP) No. EMS-RFP-7-84 issued by the Department of Agriculture. We dismissed the protest because EOC failed to furnish a copy of its protest to the contracting agency within 1 day after the protest was filed with GAO.

Section 21.1(d) of our Bid Protest Regulations, 4 C.F.R. § 21.1(d) (1985), requires the protester to furnish a copy of its protest to the contracting officer within 1 day after it is filed with our Office. EOC's protest was filed here on June 6, 1985. The contracting agency had not received a copy of EOC's protest as of June 14, 1985.

EOC argues that it complied with section 21.1(d) by mailing a copy of its protest to the contracting agency on the same day it mailed the protest to GAO. The protester asserts that the Department of Agriculture refused to accept delivery of the protest copy, and as evidence has submitted a copy of an envelope bearing a postmark of June 6, 1985 and a "return to sender" stamp clearly applied by the agency.

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The envelope was addressed to an individual as the head of the "Procurement Section, Administrative Services Division, U.S. Department of Agriculture, Washington, D.C. 20250." The envelope also bears the following stamp: "RETURN TO SENDER, DIRECTORY SERVICE PROVIDED, NOT LISTED AT USDA, Please be advised to include, as part of your address, the correct AGENCY and ROOM NUMBER." From this stamp, it appears that the Department of Agriculture did receive a copy of EOC's protest in a timely fashion, but that the Department mail service section could not identify the office or person to whom the envelope was addressed and returned the envelope for that reason.

Although it is not at all clear why the named addressee could not be identified by the mail section since that individual is listed as the "Head" of the "Procurement Section" in box 16A of Standard Form 30, which amended the solicitation, we note that both the amendment and the original RFP identify the issuing activity as the Economics Management Staff and include Room 1346 South Building as part of the address. In addition, the RFP also informed contractors that communications pertaining to the contract were to be addressed to the contracting officer, and the address was to include the "Economics Management Staff" and "Room 1346 South Building." From this, and from the stamp applied by the mail section, it appears that identification of the Economics Management Staff and of the room and building was necessary for mail addressed to the contracting officer here. EOC clearly did not include those elements when it addressed the envelope. Under the circumstances, we think EOC must suffer the consequences of its failure to do so.

Accordingly, since the contracting officer did not receive a copy of the protest as required by 4 C.F.R. § 21.1(a), the prior dismissal is affirmed.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel